

AMENDED IN SENATE JUNE 24, 2003

AMENDED IN SENATE JUNE 9, 2003

AMENDED IN ASSEMBLY MAY 12, 2003

AMENDED IN ASSEMBLY APRIL 29, 2003

AMENDED IN ASSEMBLY MARCH 13, 2003

AMENDED IN ASSEMBLY FEBRUARY 18, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 13

**Introduced by Assembly Member Harman
(Coauthor: Assembly Member Jackson)**

December 2, 2002

An act to add and repeal Section 118.7 of to the Streets and Highways Code, relating to the Department of Transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Harman. Department of Transportation: transfer of property.

Existing law provides that the Department of Transportation (hereafter Caltrans) has full possession and control of all state highways and all property and rights on property acquired for state highway purposes. Various provisions of existing law specifically provide for the acquisition, transfer, and use of Caltrans property.

This bill would authorize Caltrans, ~~until January 1, 2008~~, to transfer specified environmental mitigation property that is located within the city limits of Huntington Beach and not part of the highway

right-of-way to a public agency or to a nonprofit corporation that is organized for open-space or land conservation purposes. The bill would authorize Caltrans to enter into a cooperative agreement with a public agency or nonprofit corporation that is transferred environmental mitigation property in order to provide funding for future maintenance of the property. The bill would require a public agency or nonprofit corporation that is transferred environmental mitigation property to be responsible for the future maintenance of the property and would provide that the property would revert to the department if the property is not maintained.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 118.7 is added to the Streets and
2 Highways Code, to read:

3 118.7. (a) Notwithstanding any other provision of law, the
4 department may, upon terms, standards, and conditions approved
5 by the commission, transfer environmental mitigation property
6 located within the city limits of Huntington Beach to a public
7 agency or to a nonprofit corporation that is qualified pursuant to
8 Section 501(c)(3) of the Internal Revenue Code and is organized
9 for, among other things, open-space or land conservation
10 purposes.

11 (b) For the purposes of this section, “environmental mitigation
12 property,” means property owned by the department that is
13 required by state or federal law, or by permit conditions imposed
14 by a state or federal agency, to be preserved or restored as natural
15 habitat to offset the environmental impacts caused by the
16 construction and operation of a state highway improvement
17 project. However, “environmental mitigation property” does not
18 include property that is part of highway operating right of way.
19 Environmental mitigation property shall be maintained as natural
20 habitat in accordance with the permit conditions. “Environmental
21 mitigation property” means property situated immediately east
22 and adjacent to State Highway Route 1 located between
23 Brookhurst Street and Newland Street with an approximate size of
24 7.1 acres.



1 (c) As a condition to the transfer of environmental mitigation
2 property pursuant to subdivision (a), the department may enter
3 into a cooperative agreement with the transferee to provide
4 funding for the future maintenance of the property consistent with
5 any mitigation performance goals imposed by state or federal law
6 or conditions imposed by a state or federal agency. In determining
7 the amount of the funding provided, the department shall consider
8 the costs of maintaining the property and shall offset from the
9 amount of those costs any benefit or value received by the
10 transferee as a result of the transfer.

11 *The department shall provide the fiscal and transportation*
12 *policy committees of the Legislature with at least 30 days prior*
13 *written notice of the transfer and cooperative agreement, and the*
14 *amount of any funding in accordance with the transfer and*
15 *cooperative agreement, to facilitate the Legislature's review of the*
16 *transfer.*

17 *Funding provided as part of a transfer agreement shall be*
18 *limited to a single occurrence.*

19 (d) (1) The public agency or nonprofit corporation to which
20 the department transfers the environmental mitigation property
21 shall assume the long-term responsibility for the future
22 maintenance of the property.

23 (2) (A) If the public agency or nonprofit corporation fails to
24 maintain the property in the manner required by law and in the
25 manner described in subdivision (b), or if the nonprofit
26 corporation ceases to exist, the property shall automatically revert
27 to the department.

28 (B) If the property reverts back to the department pursuant to
29 this paragraph, any remaining funds from the original transfer
30 pursuant to subdivision (a) shall revert back to the department.

31 (C) Any costs, including legal costs, associated with reversion
32 pursuant to this paragraph shall not accrue to the department.

33 (e) (1) All deeds conveying property in accordance with this
34 section shall include a restriction limiting the use of the property
35 solely for environmental mitigation purposes in accordance with
36 the permit conditions specified in subdivision (b).

37 (2) All deeds conveying property in accordance with this
38 section and deeds related to a transfer or assignment of property
39 under this section shall be filed with the county recorder's office
40 in the county where the property is located.

1 (f) The public agency or nonprofit corporation to which the
2 department transfers environmental mitigation property shall not
3 do either of the following:

4 (1) Transfer or assign the property to another entity without
5 approval from the department.

6 (2) Transfer or use the property for a private commercial
7 interest.

8 ~~(g) This section shall remain in effect only until January 1,~~
9 ~~2008, and as of that date is repealed, unless a later enacted statute,~~
10 ~~that is enacted before January 1, 2008, deletes or extends that date.~~

